

## **BUREAU OF AUTOMOTIVE REPAIR**

### **INITIAL STATEMENT OF REASONS**

**Hearing Dates:** January 9 and 11, 2002.

**Subject Matter of Proposed Regulations:** Revised Estimate; Unusual Circumstances; Electronic Authorization.

**Sections Affected:** §§ 3303 and 3353, Title 16, Division 33, Chapter 1, Article 5.5, California Code of Regulations.

**Problem Addressed:**

Assembly Bill 1778 (Lowenthal) (Chapter 336, Statutes of 2000), among other things, recognizes the convenience and efficiency of current technology in the exchange of information. By allowing consumers and automotive repair dealers to avail themselves of the modern methods for receipt and transmission of information now so widely available, the process of authorizing revised estimates and/or additional repairs may be sped up and clearly documented. However, Assembly Bill 1778 does not provide any direction as to the specific procedures to be followed or the documentation to be maintained, when additional repair authorizations are obtained electronically (i.e., by electronic mail or facsimile transmission).

**Specific Purpose of Regulatory Proposal:**

The proposed regulatory action, as authorized in Assembly Bill 1778, will establish the procedures to be followed by automotive repair dealers when revised estimates and requests for authorization are transmitted to customers via facsimile transmission (fax) or electronic mail (e-mail) and/or when authorization is returned by similar means. The intent of the proposed action is to maintain all of the current protections provided to consumers when estimates are revised, while providing for the maximum convenience and efficiency available through modern technology. In this regard, full disclosure and complete documentation - similar to that currently required for oral/telephonic authorizations - will be required under the proposed action. In addition, multiple methods of communication will specifically be permitted in a single transaction (i.e., a faxed revised estimate may be responded to either by fax, e-mail or telephone), thereby providing the maximum degree of flexibility.

**Factual Basis:**

Government has begun to recognize the advantages of "E-Commerce" in today's technological society. Many consumers today either have or have access to, fax machines and e-mail. Many automotive repair dealers also have the same technology available. It is becoming more and more common today for customers to communicate electronically with automotive repair dealers. The legislature has recognized these facts in the passage of Assembly Bill 1778.

The job of implementing its provisions has been left to the Bureau of Automotive Repair (Bureau).

For decades the Automotive Repair Act (Business and Professions Code, Chapter 20.3, Article 1, § 9880, et seq.) has required disclosure, authorization and documentation regarding estimates and revised estimates in order to decrease or prevent the occurrence of what was commonly called “the five o’clock surprise.” Prior to enactment of the Automotive Repair Act, it was not uncommon for a customer to arrive at the automotive repair dealer, at or near closing time, to pick up their vehicle only to learn for the first time that a \$100 repair bill had, for example, somehow increased to \$800. In these situations the consumer is at a distinct disadvantage – the shop has the car, the consumer needs it back. Generally, the only immediate solution to this problem was to pay the bill and try to work it out later. The statutes and regulations regarding estimates, revised estimates and invoices have provided the Bureau and the automotive repair industry, with the necessary tools to prevent “the five o’clock surprise” and/or assist consumers who may be victims of it. However, the current regulations do not take into account current communication technology. The proposed action would recognize the fax and e-mail as proper methods of communicating and authorizing revised estimates.

**Underlying Data:**

None.

**Business Impact:**

This regulation will not have a significant adverse economic impact on businesses.

**Specific Technologies or Equipment:**

This regulation does not mandate the use of specific technologies or equipment.

**Consideration of Alternatives:**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

No reasonable alternative has been considered or identified thus far.